



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 12, 2013

MEMORANDUM

To: The Commission

Through: Alec Palmer *for PCO*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Thomas E. Hintermister *TH*
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Audit Division

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By: Nicole Burgess *NB*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the Vermont
Democratic Party ((VDP) A11-12)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendation below and discusses the finding in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

Recordkeeping for Employees

For the period covered by the audit, VDP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to VDP employees totaling \$203,472 for which monthly payroll logs were not maintained. All of the VDP employees were originally disclosed as having been paid with an allocation of federal and non-federal funds. After the exit conference, VDP amended its reports to disclose payments to employees as federal election activity.

In response to the Interim Audit Report recommendation, VDP submitted a plan to pay all employees with 100 percent federal funds. Further, VDP said it would maintain monthly timesheets for all employees paid with federal/non-federal allocated funds, in order to track the percentage of time each employee spends on federal election activity.

The Audit staff recommends that the Commission find that the VDP failed to maintain logs to document the time employees spent on federal election activity totaling \$203,472.

VDP did not request an audit hearing.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Nicole Burgess or Doug Kodish at 694-1200.

Attachment: Draft Final Audit Report of the Audit Division on the Vermont Democratic Party

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Vermont Democratic Party

(January 1, 2009 - December 31, 2010)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act. The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any matter discussed in this report.

About the Committee (p. 2)

The Vermont Democratic Party is a state party committee headquartered in Montpelier, Vermont. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts

• Contributions from Individuals	\$ 544,077
• Transfers from Affiliated Committees	332,494
• Transfers from Other Political Committees	219,000
• Other Receipts	89,791
Total Receipts	\$ 1,185,362

• Disbursements

• Operating Expenditures	\$ 762,858
• Federal Election Activity	238,300
• All Other Disbursements	175,576
Total Disbursements	\$ 1,176,734

Finding and Recommendation (p. 3)

- Recordkeeping for Employees

¹ 2 U.S.C. §438(b).

Draft Final Audit Report of the Audit Division on the Vermont Democratic Party

(January 1, 2009 - December 31, 2010)

Draft



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Draft

Part I

Background

Authority for Audit

This report is based on an audit of the Vermont Democratic Party (VDP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine whether the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reported figures and bank records;
5. the completeness of records;
6. the disclosure of independent expenditures; and
7. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the Commission's "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," VDP requested early consideration of a legal question raised during the audit. VDP questioned whether the monthly time logs required under 11 C.F.R. §106.7(d)(1) applied to employees paid with 100 percent federal funds.

The Commission concluded, by a vote of 5-1, that 11 C.F.R. §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed VDP Counsel of the Commission's decision on VDP's request. The finding presented in this audit report, Recordkeeping for Employees, does not include VDP employees paid with 100 percent federal funds and reported as such, excluding amended filings.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	October 20, 1976
• Audit Coverage	January 1, 2009 - December 31, 2010
Headquarters	
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Five federal and two non-federal
Treasurer	
• Treasurer When Audit Was Conducted	Linda Weiss (2/2011 – Present)
• Treasurer During Period Covered by Audit	Michael Inners (2/2006 – 4/2009) Edward Frey (4/2009 – 6/2009) Lloyd Souchette (6/2009 – 8/2009) Edward Clark (8/2009 – 2/2011)
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Record Keeping Tasks	Paid staff and volunteers

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2009	\$ 37,901
Receipts	
○ Contributions from Individuals	544,077
○ Affiliated Committees	332,494
○ Other Political Committees	219,000
○ All Other Receipts	89,791
Total Receipts	\$ 1,185,362
Disbursements	
○ Operating Expenditures	762,858
○ Federal Election Activity	238,300
○ All Other Disbursements	175,576
Total Disbursements	\$ 1,176,734
Cash-on-hand @ December 31, 2010	\$ 46,529

Part III

Summary

Finding and Recommendation

Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that VDP did not maintain any monthly logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to VDP employees totaling \$203,472,² for which monthly payroll logs were not maintained. All of the VDP employees were originally disclosed as having been paid with an allocation of federal and non-federal funds. After the exit conference, VDP amended its reports to disclose payments to employees as federal election activity.

In response to the Interim Audit Report recommendation, VDP submitted a plan to pay all employees with 100% federal funds. Further, VDP stated it will maintain monthly timesheets to track the percentage of time each employee spends on federal election activity for all employees paid with federal/non-federal allocated funds. The Audit staff considers this matter resolved. (For more details, see page 10.)

² This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1).

Part IV

Finding and Recommendation

Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that VDP did not maintain any monthly logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to VDP employees totaling \$203,472³, for which monthly payroll logs were not maintained. All of the VDP employees were originally disclosed as having been paid with an allocation of federal and non-federal funds. After the exit conference, VDP amended its reports to disclose payments to employees as federal election activity.

In response to the Interim Audit Report recommendation, VDP submitted a plan to pay all employees with 100% federal funds. Further, VDP stated it will maintain monthly timesheets to track the percentage of time each employee spends on federal election activity for all employees paid with federal/non-federal allocated funds. The Audit staff considers this matter resolved.

Legal Standard

Maintenance of Monthly Logs. Parties committed must keep a monthly log of the percentage of time each employee spends in connection with a federal election.

Allocations of salaries, wages, and fringe benefits are to be determined as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or be allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with state law. 11 CFR §101.10(1).

Facts and Analysis

A. Facts

During fieldwork, the Audit staff reviewed disbursements for payroll. VDP did not maintain any monthly logs or equivalent records to document the percentage of time each employee spent in connection with federal election activity. For 2009 and 2010, the Audit staff identified payments to VDP employees totaling \$203,472^{4,5} for which payroll

³ This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1).

⁴ Payments to VDP employees paid with 100 percent federal funds and reported as such are not included in this finding (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1).

logs were not maintained. All of these individuals were originally disclosed as having been paid with an allocation of federal and non-federal funds. VDP had no employees paid with exclusively non-federal funds.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the payroll recordkeeping matter with VDP representatives during audit fieldwork and at the exit conference. VDP representatives stated that they were unable to locate the documentation requested and explained that these payroll expenditures were reported erroneously as shared federal/non-federal activity, instead of solely federal. Further, they stated plans to correct this error by comprehensively amending their reports and disclosing these expenditures as strictly federal activity. The Audit staff verified that the VDP had sufficient federal funds to cover both the federal and non-federal share of payroll costs. After the exit conference, VDP filed amended reports to disclose the payroll as federal election activity paid entirely with federal funds.

The Interim Audit Report recommended that VDP provide and implement a plan to maintain monthly payroll logs to track the percentage of the each employee's funds on federal election activity.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report, VDP submitted a plan to pay all its employees with 100 percent federal funds and to report all its employees' salaries and benefits on Schedule B, line 30b (Itemized Disbursements - Federal Election Activity Paid Entirely with Federal Funds). The plan included a contingency, in the event VDP ever had to pay employees with an allocation of federal and non-federal funds, or solely with non-federal funds. VDP provided a sample payroll log to be used if such payment to employees were to occur. The contingency plan also requires the Executive Director to ensure payroll logs are kept, proper reports made, a response file is maintained for continuity, and that VDP Counsel be consulted to ensure payment with the appropriate funds. Such action is consistent with Commission guidance with respect to payroll logs. The Audit Staff considers this matter resolved.

⁵ Payroll is stated net of taxes and benefits.